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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CLERK OF COURT
DISTRICT OF MASS

TRUSTEES OF THE PLUMBERS & PIPEFITTERS'
NATIONAL PENSION FUND; TRUSTEES OF THE
PLUMBERS & PIPEFITTERS' INTERNATIONAL
TRAINING FUND; TRUSTEES OF THE PLUMBERS
AND PIPEFITTERS' LOCAL UNION NO. 4 HEALTH
& WELFARE FUND; PENSION FUND; ANNUITY
FUND; JOINT APPRENTICE TRAINING FUND;
INDUSTRY FUND; BUILDING & RELIEF FUND and
PLUMBERS AND PIPEFITTERS UNION LOCAL NO. 4

Plaintiffs

VS.

HVAC MECHANICAL SYSTEMS, INC.

Defendant

Civil Action No.
04-11776 (NG)

October 29, 2004

**APPLICATION TO THE CLERK OF THE COURT
FOR ENTRY OF JUDGMENT BY DEFAULT**

Pursuant to Rule 55(b)(1) Fed.R.Civ.P., the Plaintiffs, by and through their attorneys, Robert M. Cheverie & Associates, P.C., hereby request the Clerk of this Court to enter judgment by default against Defendant for the following sums certain:

1. Defendant HVAC Mechanical is a member of the New England Mechanical Contractors' Association (hereinafter "Association") and has assigned its bargaining rights to the Association for purposes of negotiating a collective bargaining agreement with Plumbers and Pipefitters Union Local No. 4 (hereinafter the "Union"). Defendant HVAC Mechanical is, therefore, a party to and bound by the Collective Bargaining Agreement

(hereinafter "CBA") between the Association and the Union. Said contract obligates the Defendant company to submit monthly reports ("Remittance Reports") to Plaintiffs Trustees of the Plumbers & Pipefitters' National Pension Fund; Trustees of the Plumbers & Pipefitters' International Training Fund; Trustees of the Plumbers and Pipefitters' Local Union No. 4 Health & Welfare Fund; Pension Fund; Annuity Fund; Joint Apprentice Training Fund; Industry Fund; and Building & Relief Fund (the "Funds"), identifying hours worked and contributions owed and to make payments of sums certain to the Funds (Attachment "A", Affidavit of Doreen Lefort).

2. The Remittance Reports submitted to the Funds demonstrate a sum certain due to the Plaintiffs for the months of November 2003 through February 2004 in the amount of **\$34,486.18**. Estimated delinquencies for the months of March through July 2004 total **\$30,392.40**. Under ERISA §515 [29 U.S.C. §1145], Defendant HVAC Mechanical is liable for the total monthly contributions due of **\$64,878.58** (see Attachment "A", Affidavit of Doreen Lefort).

3. Plaintiff Funds are entitled to receive liquidated damages in the amount of twenty percent (20%) (Attachment "A", Affidavit of Doreen Lefort). This represents an estimated sum certain of **\$12,975.72**.

4. Plaintiffs are entitled to recover attorney's fees in the amount of **\$1,710.⁰⁰** pursuant to 29 U.S.C. Section 1132(g) and 28 U.S.C. Section 1961 against Defendants HVAC Mechanical (see Attachment "B", Affidavit of John M. Brown). Costs for filing and serving the summons and complaint were **\$206.08** (Id.).

5. The Defendant, HVAC Mechanical, is a Massachusetts company engaged in the plumbing and pipefitting contracting business and employed Local 4 plumbers and pipefitters. The Defendant, HVAC Mechanical, is liable for the payment of delinquent contributions in the known amount of **\$34,486.18**, estimated damages of **\$30,392.40**, liquidated damages in the amount of **\$12,975.72**, costs of **\$206.08**, and attorney's fees of **\$1,710.⁰⁰**, for a total of **\$79,770.38**.

7. The Defendant is not incompetent nor in the military service (see Attachment "B").

8. Nothing in this Judgment shall preclude the Funds from seeking any additional amounts that are presently unknown, but may become known in the future.

9. Plaintiffs rely on the attached Memorandum of Law.

ATTORNEY FOR PLAINTIFFS,



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